



**TOWN OF FRAMINGHAM**  
**ZONING BOARD OF APPEALS**

150 Concord Street B2  
Framingham, MA 01702

2016 MAR 22 P 3:34

TOWN CLERK  
FRAMINGHAM

**BOARD OF APPEALS CASE NO. 15-51**

**PETITION OF BRENDON PROPERTIES NORTHSIDE MEADOW LLC**

**& BENCHMARK SENIOR LIVING**

**DATE OF DECISION: MARCH 8, 2016**

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of BRENDON PROPERTIES NORTHSIDE MEADOW LLC & BENCHMARK SENIOR LIVING (hereinafter the Applicant), for property located at 518 PLEASANT ST. This Decision is in response to a Petition for a Special Permit for ASSISTED LIVING HOUSING as required by the Zoning By-Law (hereinafter the Application).

**2. Property Owner and Applicant**

Brendon Properties Northside Meadow LLC  
259 Turnpike Road, Suite 110  
Southborough, MA 01772

**3. Location**

Property is located at 518 Pleasant St and identified by Assessors' Parcel ID 088-75-4400-000 (hereinafter the Site).

**4. Board Action**

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on March 8, 2016 the Board voted to GRANT a SPECIAL PERMIT by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

|                          |     |
|--------------------------|-----|
| PHILIP R. OTTAVIANI, JR. | YES |
| SUSAN S. CRAIGHEAD       | YES |
| STEPHEN MELTZER          | YES |

**5. Proceedings**

The Application was received by the Board on October 7, 2015, pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law (the "By-Law"). The Application was considered by the Board at a duly noticed public hearing of the Board on November 16, 2015 at 7:00 P.M. in the Ablondi Room of the Memorial Building. The application was continued to the following hearings: December 15, 2015; January 19, 2016; February 9, 2016; and March 8, 2016. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternate Ted Cosgrove were present throughout the proceedings. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the

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record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

The following persons appeared at the public hearing on behalf of the Applicants: Kevin Giblin and Brendon Giblin, principal owners and managers of Brendon Properties Northside Meadows LLC of Southborough, Massachusetts; John E. Dragat and Eric Gardner of Benchmark Senior Living ("Benchmark") of Waltham, Massachusetts; Craig Lizotte, P.E. civil engineer with the engineering firm of VHB of Watertown, Massachusetts ("VHB"); Vinod Kalikiri, P.E., PTOE, transportation engineer with VHB; David Udelsman, AIA, Udelsman Associates, architect for Benchmark; and Paul V. Galvani, Esq. of Framingham, legal counsel for the Applicants.

The Town of Framingham retained the firm of Vanasse & Associates, Inc., Transportation Engineers & Planners ("Vanasse") to review the Applicant's traffic study and provide the Zoning Board of Appeals with traffic and transportation advice and mitigation recommendations. Jeffrey S. Dirk, P.E., PTOE, FITE, transportation engineer with Vanasse, appeared at the public hearings to present expert testimony on behalf of the Town of Framingham.

Residents submitted eight (8) letters of support, and 10 letters of opposition. There were dozens of comments heard at three public meetings. Supporters generally noted that there is a growing elderly population and that assisted living facilities are needed; that concerns about traffic are mainly due to existing conditions and would not be substantially worsened by the proposed project; that assisted living is a residential use and is appropriate for the neighborhood; and that to treat assisted living as a commercial use would be disrespectful to residents who would not want to live in commercial areas. Opponents raised concerns about disturbances from what many felt was a commercial use, including commercial deliveries to the facility, as well as the possibility for frequent emergency vehicles causing noise. Some felt that the Active Adult portion of the overall project was needed, but not the assisted living, and that the assisted living should be replaced with all Active Adult housing. Others felt that assisted living would not benefit many Framingham residents. A number of residents commented on the need for better pedestrian accommodations, noting that people will cross the street wherever it is easiest, not necessarily at provided crossings.

The Applicants and their representatives and consultants provided the following testimony at the public hearings:

A. Existing Conditions. Brendon Properties Northside Meadow, LLC, an entity of Brendon Homes, Inc., of Southborough, Massachusetts, ("Brendon Homes") is the owner of the land and buildings situated at 518 Pleasant Street, Framingham, formerly owned by the Marist Fathers of Boston (the "Premises"). Benchmark Senior Living of Waltham, Massachusetts, is an owner and operator of assisted living housing communities in Massachusetts and other states in New England and beyond. The Premises contain approximately 28.7 acres of land and were formerly used for religious and educational purposes by the Marist Fathers of Boston. The Premises contain a large, three-story brick and concrete building formerly used as a seminary, retreat center and residence, a second building known as Bishop's Hall, other smaller buildings and structures and off-street parking lots. The buildings are currently vacant.

The land has frontage along Pleasant Street (Route 30, a state-designated road under the ownership and jurisdiction of the Massachusetts Highway Department) and is also abutted by Temple Street on the easterly side, Interstate Route 90 (the Massachusetts Turnpike) on the southerly side and single-family residences that front along Royal Meadow Lane, a public way, on the westerly side. The Premises are located in the R-3 Single-Family Residence (20,000-square-foot minimum lot area) Zoning District which permits single-family detached dwellings and other uses as enumerated in Section II.B. of the Framingham Zoning By-Law (the "By-Law") and as regulated in other sections of the By-Law.

B. Proposed Development. Brendon Homes proposes to subdivide the Premises into two conforming frontage lots. Lot 1, containing approximately 8.6 acres, upon which the proposed assisted living housing building, parking and site improvements would be constructed subject to obtaining a Special Permit for Use from the Zoning Board of Appeals pursuant to Sections II.B.1.G. and V.A. of the By-Law, and Site Plan Review Approval and Special Permits from the Planning Board under Section VI.F. and other applicable sections of the By-Law as required. Brendon Homes proposes to develop age-restricted housing on the remainder of the Premises (Lot 2 containing approximately 20 acres) subject to obtaining the necessary permits and approvals from the Planning Board pursuant to Section V.I. Active Adult Housing and Section VI.F. Site Plan Review and other sections of the By-Law as required.

The proposed Assisted Living Housing Community will consist of a single building containing 52 housing units with a total of 104 bedrooms. The building will be residential in style and the architectural design will be compatible with the residences in the area and with the "active adult" housing units proposed by Brendon Homes on Lot 2. The building was specifically designed for this site, and after consideration of neighborhood concerns, the width of that portion of the building closest to and parallel to Pleasant Street was reduced in width and also reduced to a single story in elevation with a standard, New England style, pitched roof. The remainder of the building will contain two-stories. 62 off-street parking spaces for staff and visitors are proposed. The parking areas will have limited visibility from Pleasant Street and Temple Street.

The project will meet or exceed the applicable dimensional requirements of the By-Law, including the minimum front yard setback of 150 feet, side and rear setbacks and landscape buffer requirements. The proposed building area coverage (ratio of the area of the building footprint to the area of the lot) is 11%. The proposed floor area ratio (ratio of the gross floor area of the building to the area of the lot) is 16% whereas the By-Law permits a maximum of 25%. Proposed open space will be 73% of the lot area, exceeding the minimum required by the By-Law, which is 50%.

The Traffic Impact and Access Study prepared by VHB projects that the morning and evening peak-hour trip generation (total of trips entering and exiting the site) from the proposed Assisted Living Housing Community is 15 vehicle trips in the AM peak hour and 23 vehicle trips in the PM peak hour. By comparison, the existing morning and evening peak-hour volumes along Pleasant Street west of Temple Street are currently 745 and 995 vehicle trips respectively. The projected volumes at the time the project is projected to be completed are

775 and 1100 vehicle trips in the morning and evening peak hours, respectively. Vanasse & Associates, the transportation consulting engineer retained by the Town of Framingham to review the Applicants' reports, has confirmed that VHB's reports were prepared in a professional manner and followed the applicable standards of care. VHB has provided all of the supplemental information and analysis requested by the Zoning Board of Appeals and by Vanasse & Associates. The Applicants have also agreed to construct the proposed mitigation measures as a condition of approval, subject to the necessary permits from the Massachusetts Department of Transportation (MassDOT). The reports and memoranda by VHB and Vanasse are referenced in this Decision in Section 6.

## **6. Exhibits**

Submitted for the Board's deliberation were the following exhibits, all of which are incorporated into this Decision by reference.

- 6.1. Application filed with the Building Official for a permit to construct an assisted living facility, dated October 1, 2015.
  - 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on October 23, 2015.
  - 6.3. Filing fee in the amount of \$500.00.
  - 6.4. Aerial photo, dated September 16, 2015.
  - 6.5. Architectural renderings entitled "Northside Meadows Illustrative Perspective Images", prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, dated October 6, 2015.
  - 6.6. Site Plan entitled "Northside Meadows Illustrative Master Plan", prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, dated October 26, 2015, revised November 13, 2015.
  - 6.7. Site Plan entitled "Northside Meadows Conceptual Site Plan", prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, dated October 26, 2015, revised December 11, 2015.
  - 6.8. Building plans entitled "Friendship Suites Framingham First Floor Plan", "Friendship Suites Framingham Second Floor Plan" and "Benchmark Senior Living Framingham Exterior Elevations", prepared by Udelsman Associates, 161 Federal Hill Road, Hollis, NH.
  - 6.9. Applicant's memorandum in support, dated February 9, 2016.
  - 6.10. Traffic Impact and Access Study with additional submittals, prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, dated December 3, 2015; January 13, 2016; and, February 2, 2016.
  - 6.11. Traffic Engineering Peer Review documents with additional submittals, prepared by Vanasse & Associates, Inc, 35 New England Business Center Drive, Suite 140, Andover, MA, dated December 18, 2015; January 19, 2016; and, February 4, 2016.
  - 6.12. Communications received from residents in support and opposition.
- Exhibits 6.7 and 6.8 referenced above shall be hereinafter referred to as the "Plans".

## **7. Findings and Conclusions**

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the Single Residence R-3 zoning district.
- 7.2. On October 2, 2015, the Building Official denied the Application for a permit to construct an assisted living facility under Section II.B.2 of the Zoning By-Law.
- 7.3. On October 7, 2015, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit for assisted living facility.
- 7.4. On October 23, 2015, the Applicant filed with the Town Clerk a revised Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit for assisted living facility and a Variance from side setback requirements under the Zoning By-Law. The Application for a Variance was subsequently withdrawn by the Applicant.
- 7.5. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on November 2 and 9, 2015 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.
- 7.6. The Applicant is before the Board for a Special Permit for Assisted and Congregate Living Housing pursuant to Sections V.A. and VI.E.3. of the By-Law. Mr. Gatlin stated he was very much in favor and felt that the assisted living use was very appropriate. He noted that there are many such facilities in surrounding towns, and felt that Framingham residents should not have to move away to find such a residence. Ms. Craighead agreed that assisted living facilities are residential and that, despite the high cost, residents do consider them "home". Mr. Ottaviani also agreed that it is a residential use. Mr. Meltzer agreed that it was an appropriate use, and noted that the property cannot remain undeveloped forever.
- 7.7. Mr. Ottaviani said that the proposed development scenario is a "win-win" for the Town. He praised the reputation of the builder. Ms. Craighead added that the proposal is consistent with the By-law.
- 7.8. Mr. Cosgrove, referencing concerns of residents that the facility will not be filled by Town residents and will not benefit them, said that he thought the facility would benefit residents whose parents will move closer to their families.
- 7.9. Ms. Craighead stated that traffic was a concern in the vicinity of the project, but that it was not a result of the proposed project, and that additional traffic would be minimal.
- 7.10. Mr. Ottaviani read the list of conditions suggested by the traffic consultants and Board members. He commented that he thought the Temple Street crossing should be as close as possible to Pleasant St. Mr. Meltzer suggested adding a requirement that the Applicant must "diligently pursue" necessary permits for safety improvements, including appeal of negative determinations (if any) by MassDOT. He agreed that there must be a Temple St. crossing accessible from the project site. Ms. Craighead acknowledged that MassDOT must agree to proposed improvements, but felt the Town should be kept informed of progress on pursuit of permits, and should have an opportunity to review such applications.

7.11. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval enumerated in Section VI.E.3.a.(1) – (5) have been met:

- 7.11.1. The specific site is an appropriate one for such a use or structure. *The site is located in a Single Residence (R-3) zoning district in which the proposed, residential use as assisted living housing is specifically allowed by special permit. Proposed Lot 1 contains an area of 8.6 acres and will have access to and from Pleasant Street (Route 30, a state designated road under the ownership and jurisdiction of the Massachusetts Highway Department). The site is also abutted by Temple Street, a public way in the Town of Framingham, and the Massachusetts Turnpike. There are no direct, residential abutters to Lot 1. There are existing homes and new houses under construction on the opposite side of Pleasant Street and Temple Street. Brendon Homes proposes to develop age-restricted condominiums on Lot 2, subject to necessary permits and approvals. The Plans demonstrate compliance with all of the applicable, dimensional requirements of the By-Law. The site provides a safe, accessible and convenient residential location for the persons it is designed to accommodate and for visitors and staff.*
- 7.11.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *The plans provide for safe and convenient access and egress to and from Pleasant Street for staff, visitors and emergency vehicles. The Plan contains an off-street parking lot to accommodate staff and visitor parking. The proposed building is to contain 52 residential units and common areas and facilities such as dining rooms, activity rooms, living areas and other facilities designed to meet the needs and convenience of the residents and support staff. The proposed building will be serviced by municipal water and sanitary sewer, electricity, natural gas and other utilities. The Board notes that the project must obtain Site Plan Review and Approval from the Planning Board, including a detailed review of these aspects of the project by the various Town Departments having jurisdiction, including the Building Department, Department of Public Works, Police Department, Fire Department and Board of Health.*
- 7.11.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *The Board required a traffic impact study from the Applicant, and also retained Vanasse & Associates to review issues regarding traffic and vehicular and pedestrian safety on behalf of the Town of Framingham. Based upon the testimony and detailed written reports from Vanasse and also from the Applicants' consultant, VHB, the Board finds that with the implementation of the conditions of approval set forth herein, the proposed assisted living housing will not create a hazard to abutters, vehicles or pedestrians.*
- 7.11.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *The proposed assisted living housing is specifically allowed and regulated in the Single Residence District under the By-Law. As defined under both state law (M.G.L.ch.19D) and Section I.E. of the By-Law, assisted living is classified as a residential use. The Plans show compliance with the applicable, dimensional regulations of the By-Law, including the specific conditions set forth in Section V.A. (1) – (10).*

7.11.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient. *The proposed building will be serviced by municipal water and sanitary sewer, electricity, natural gas and other utilities. The Board notes that the project must obtain Site Plan Review and Approval from the Planning Board, including a detailed review of these aspects of the project by the various Town Departments having jurisdiction, including the Building Department, Department of Public Works, Police Department, Fire Department and Board of Health.*

7.12. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval enumerated in Section V.A.(1) – (10) have been met:

Section V.A. (1) requires a minimum lot area of not less than 5 acres or not less than 1 acre per 10 units. The proposed lot area is 8.6 acres and exceeds the minimum lot area necessary for 52 Units, which would be 5.2 acres as per the above-cited calculation.

Section V.A. (2) requires that the development be on land located on a primary or collector roadway or with direct access to one. Pleasant Street (Route 30) is in fact a primary roadway within the Town of Framingham.

Section V.A. (3) requires that the FAR shall not exceed 0.25 in a residential zone. The proposed building has an FAR of 0.16.

Section V.A. (4) requires that the minimum setback shall be 150 feet, of which 75 feet shall be landscaped open space. The proposed development complies with these requirements.

Section V.A. (5) requires a minimum side setback of 50 feet except where abutting a one, two or three-family use. The proposed development complies with this requirement.

Section V.A. (6) requires that the maximum height not exceed 2 ½ stories and 35 feet. The proposed building complies with these requirements.

Sections V.A. (7) and (8) require year-round opaque screening of developments and parking areas facing residential areas. Detailed landscaping plans (currently conceptual) shall be submitted to the Planning Board and are subject to its review and approval.

Sections V.A. (9) provides that developments located in a Single Residence District be designed for compatibility with the residential character of the area. Brendon Homes, Benchmark Senior Living and its architects have designed the building to comply with these requirements and in particular reduced the width and height (shown on the Plans as one-story in elevation) of the building on the end closest to Pleasant Street. The overall design and choice of building materials complies with the purpose and intent of this provision of the By-Law.

Section V.A. (10) requires site plan review approval from the Planning Board. The Applicant will be filing with the Planning Board as required.

7.13. The Board grants this Special Permit subject to the following conditions. Where indicated that copies of permit applications, correspondence, or reports must be submitted to the Town, said materials or notices shall be sent to the Zoning Board of Appeals Administrator, with copies to the Planning Board, Building Department and Department of Public Works.

- 7.13.1. The proposed assisted living housing facility shall be developed substantially as shown on the revised Plans, subject to review, modification and approval by the Planning Board.
- 7.13.2. Installation of an advisory speed sign (30 mph) on the westbound approach to the intersection (east of Woodmere Road) that would include an LED border to enhance visibility of the sign, subject to review and approval by MassDOT.
- 7.13.3. The Applicant shall request that MassDOT review the sight distance information and crash data for the intersection that was prepared by the Applicant's engineer, and request that MassDOT consider implementing a speed limit reduction at and approaching the intersection (VAI, 1/19, p. 7). Subject to approval by MassDOT, the Applicant shall install "intersection ahead" warning signs (graphic symbols) on both sides of Pleasant Street east of Woodmere Road facing westbound motorists, with the sign posts to include high visibility yellow reflective tape.
- 7.13.4. The Applicant shall prepare and submit all required plans, documents and permit applications for the improvements to MassDOT prior to the issuance of the first Building Permit for the Project, with evidence of said submission provided to the Town. If MassDOT approves the sign installation and speed reduction, the Applicant shall construct the improvements prior to the issuance of the first Certificate of Occupancy for the Project. If MassDOT does not approve the sign installation, the Applicant shall propose, design and construct an alternative safety improvement at the intersection (VAI, 1/19, p. 7).
- 7.13.5. The Applicant shall install a RRFB or HAWK pedestrian beacon at the Pleasant Street crossing, subject to review and approval by MassDOT. The Applicant shall prepare and submit all required plans, documents and permit applications to MassDOT prior to the issuance of the first Building Permit for the Project, with evidence of said submission provided to the Town. If MassDOT approves the crossing and control measure (RRFB or HAWK pedestrian beacon), the Applicant shall construct the improvements prior to the issuance of the first Certificate of Occupancy for the Project. If MassDOT does not approve the crossing and/or the associated control measure, the Applicant shall propose, design and construct an alternative crossing treatment.
- 7.13.6. The Applicant shall conduct post-occupancy monitoring of the number of pedestrians using the Pleasant Street crosswalk three (3) months after substantial completion of the Development (defined as 80 percent occupancy) and again at three (3) months after full occupancy of the Development (defined as 100 percent occupancy) in order to determine if the number of pedestrian crossings justifies the installation of a High Intensity Activated cross-Walk (a.k.a. "HAWK") pedestrian beacon to facilitate the safe crossing of Pleasant Street pursuant to the guidance provided in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration. The monitoring shall be conducted over a continuous 12-hour period (7 AM to 7 PM) on a weekday and shall be performed under favorable weather conditions between May and September. The results of the crosswalk monitoring study shall be submitted to the Town within 3 months after the completion of the pedestrian observations that



form the basis of the monitoring study and shall include an assessment of the pedestrian crossing volumes in relation to the HAWK installation criteria. If the pedestrian crosswalk monitoring study shows that a HAWK beacon is justified, the Applicant shall prepare the required plans, drawings, specifications and permit applications necessary for the installation of a HAWK beacon at the crosswalk for review and approval by the Massachusetts Department of Transportation (MassDOT). Should MassDOT approve the HAWK beacon, the Applicant shall construct the beacon at the Applicant's sole cost and expense. Copies of all correspondence between the Applicant and MassDOT pertaining to the HAWK beacon shall be provided to the Town.

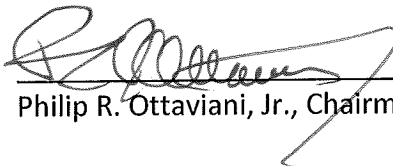
- 7.13.7. Based upon the review and recommendation of the Vanasse reports, the Board concurs with the Applicant's engineer that provision of a crosswalk across Temple Street at its intersection with Pleasant Street, while desirable, is precluded by the current limitations posed at the intersection (available public right-of-way and sight lines). As such and recognizing the importance of affording pedestrian connectivity in a safe manner, the Applicant shall evaluate opportunities to create a pedestrian pathway internal to the Project site. A mid-block crossing of Temple Street must be provided at an appropriate location sufficiently removed from Pleasant Street where appropriate sight lines are afforded to allow for a safe crossing, and the Applicant shall construct said improvement subject to all necessary permits and approvals. The ZBA Administrator must be copied on such permit applications (VAI, 2/4/16, pp. 2-3).
- 7.13.8. The Applicant must diligently pursue the necessary approvals from MassDOT for any necessary improvements within the agency's jurisdiction, including appeal of negative determinations, and must submit evidence of such applications to the Town.
- 7.14. This Decision applies only to the requested Special Permit. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 7.15. If the rights authorized by this Special Permit are not exercised within two years of the date of filing of the Decision with the Town Clerk, said Special Permit shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.
- 7.16. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including recording information, shall be furnished to the Board and the Building Official.

7.17. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

**8. Appeals**

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By:   
Philip R. Ottaviani, Jr., Chairman